

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Daniel Cooper	Team: Squad #7	CCRB Case #: 201707962	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 09/26/2017 9:00 AM	Location of Incident: § 87(2)(b) and the 103rd Precinct stationhouse	Precinct: 103	18 Mo. SOL 3/26/2019	EO SOL 3/26/2019	
Date/Time CV Reported Wed, 09/27/2017 3:24 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 09/27/2017 3:24 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. Officers			Unknown
2. SGT Nathan Mole	04654	911121	103 PCT
3. LT William Negus	00000	928856	102 DET
4. DT3 Brian Simonsen	03877	926122	102 DET

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Anthony Guerriero	02842	934976	102 DET
2. DTS Joseph Cortright	5281	944466	102 PCT
3. SGT Timothy Schmidt	01359	923136	103 PCT

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Abuse: At § 87(2)(b), in Queens, officers damaged § 87(2)(b)'s property.	§ 87(2)(b)
B. SGT Nathan Mole	Abuse: At the 103rd Precinct stationhouse, Sergeant Nathan Mole did not process § 87(2)(b)'s complaint regarding officers.	§ 87(2)(b)
C. LT William Negus	Abuse: Lieutenant William Negus entered § 87(2)(b), in Queens.	§ 87(2)(b)
D. DT3 Brian Simonsen	Abuse: Detective Brian Simonsen entered § 87(2)(b), in Queens.	§ 87(2)(b)

Case Summary

On September 27, 2017, § 87(2)(b) filed this complaint via telephone with the CCRB.

On September 26, 2017, at approximately 9:00 a.m., § 87(2)(b) returned to her home located at § 87(2)(b), in Queens, and noticed there was damage to her property allegedly caused by officers (**Allegation A: Abuse of Authority:** § 87(2)(g) § 87(2)(b)). § 87(2)(b) was not present when the damage occurred and did not know the identity of the officer(s) who caused the damage. Later that evening, at approximately 7:00 p.m., § 87(2)(b) went to the 103rd Precinct stationhouse and asked Sgt. Nathan Mole, who was at the desk, to file a complaint. Sgt. Mole allegedly refused to take her complaint (**Allegation B: Abuse of Authority:** § 87(2)(g) § 87(2)(b)). While § 87(2)(b) was at the stationhouse, her son, known to the investigation as § 87(2)(b) called her at told her that Lt. William Negus and Det. Brian Simonsen from the 102nd Precinct Detective Squad entered § 87(2)(b)'s home (**Allegation C and D: Abuse of Authority:** § 87(2)(g) § 87(2)(b)).

§ 87(2)(b) was not arrested or issued a summons related to this incident. § 87(2)(b) § 87(2)(b)'s son, captured part of the interaction on his cellular phone (Board Review 31 and 32), Snag-it versions of the video are embedded below § 87(2)(g) § 87(2)(b).

Allegation A: Abuse of Authority: At § 87(2)(b), in Queens, officers damaged § 87(2)(b)'s property.

On September 26, 2017, § 87(2)(b) returned home at around 9:00 a.m., and had problems unlocking her door, which indicated to her that someone had damaged her door. § 87(2)(b) spoke to her neighbor, § 87(2)(b) who told § 87(2)(b) that she saw uniformed and plainclothes officers knocking on § 87(2)(b)'s apartment door while § 87(2)(b) was not home. § 87(2)(b) also stated that officers accessed the fire escape joining § 87(2)(b) and § 87(2)(b)'s apartments. When § 87(2)(b) went to the fire escape, she noticed that her back window, which accessed the fire escape, was broken. Inside of her apartment, § 87(2)(b) noticed that there was damage to the interior wall adjacent to her front door. § 87(2)(b) § 87(2)(b) denied that any of the damage existed before she returned home.

Approximately an hour later, as § 87(2)(b) and her son, § 87(2)(b) left the apartment, they encountered a Hispanic male and white male in plainclothes in the hallway of the building. § 87(2)(b) spoke to both officers who told them they were looking for her son, § 87(2)(b) § 87(2)(b), and showed § 87(2)(b) an I-card with § 87(2)(b) § 87(2)(b) photograph. While speaking to the officers, they acknowledged going onto § 87(2)(b)'s fire escape but denied that an officer broke her window. According to the two officers a new member of their team “only knocked the window.” Neither admitted that an officer damaged the window but, one of the officers stated that they had spoken to the building’s superintendent, known to the investigation as § 87(2)(b) and requested that he fix the damaged window (Board Review 4).

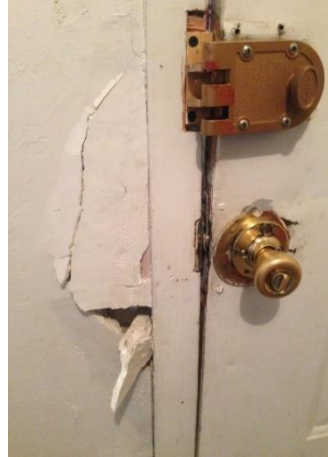
§ 87(2)(g) During his conversation with the officers, § 87(2)(b) § 87(2)(b) explained that there was interior damage to the drywall near the front door and the glass window facing their fire escape. One of the officers told § 87(2)(b) that he spoke to § 87(2)(b) and that the window and door were being fixed. Neither officer acknowledged that they damaged § 87(2)(b).

§ 87(2)(b) property and they did not allude to any officer who possibly caused the damage as § 87(2)(b) alleged (Board Review 6).

§ 87(2)(b) provided two photographs of the damage which are embedded below. § 87(2)(b) provided a photograph of the damage to the window (Board Review 7) and also provided a photograph of the damage to the drywall (Board Review 8).



(Board Review 7)



(Board Review 8)

During a phone statement to the CCRB, § 87(2)(b) stated that at approximately 9:00 a.m, she spoke with three male officers in plainclothes who explained they were looking for the neighbor's son and asked if he could have gone through the fire escape. § 87(2)(b) explained that no one was inside of her apartment, but the officers were free to look. One of the officers entered § 87(2)(b)'s apartment while the two other officers remained outside. § 87(2)(b) accompanied the officer to her bedroom which had the only window accessible to the fire escape. § 87(2)(b) watched as the officer visually inspected her room. § 87(2)(b) acknowledged that she saw the officers knock on § 87(2)(b)'s front door, but she denied that the officer entered the fire escape or that she witnessed any officer damage any property (Board Review 30).

The CCRB's Field Team conducted field work and spoke to the § 87(2)(b) the building's superintendent. § 87(2)(b) did not wish to provide a statement to the Field Team but acknowledged that he did not have a work order for the damaged property.

Lt. Negus, Det. Simonsen, Det. Anthony Guerriero and Sgt. Mole were interviewed, and all denied being present at the location when the damage allegedly occurred. The officers denied that they made contact with any of § 87(2)(b)'s neighbors and consistently denied that they or any officer from their respective commands entered the fire escape or damaged § 87(2)(b)'s property (Board Review 10 -16).

A Suspect Only I-card was found for § 87(2)(b) from Queens Special Victims Unit investigation, which was issued on § 87(2)(b) (Board Review 22). A DAS Snapshot and a warrant audit for § 87(2)(b) showed that he had no active warrants at the time of the incident (Board Review 23 and 24). The roll calls and movement logs from the 102nd and 103rd Precinct Detective Squads

did not note any officers who went to § 87(2)(b)'s address on the date of the incident (Board Review 18 and 20). An event summary yielded only one event which noted a uniformed unit responded to the building regarding an AIDED female (Board Review 27).

§ 87(2)(g)

§ 87(2)(g)

Allegation B: Abuse of Authority: At the 103rd Precinct stationhouse, Sergeant Nathan Mole did not process § 87(2)(b)'s complaint regarding officers.

§ 87(2)(b) stated that she went to the 103rd Precinct stationhouse alone to make a complaint against the officers she believed had damaged her property. When § 87(2)(b) approached the desk, she encountered Sgt. Mole and asked to file a complaint. Sgt. Mole allegedly told her that she could file a complaint with the CCRB and provided her with the CCRB's phone number. Sgt. Mole did not provide § 87(2)(b) with a reason why he could not take her complaint (Board Review 4).

Sgt. Mole stated that § 87(2)(b) entered the stationhouse and stated that she wanted to file a complaint because police officers kicked down her door and said they were looking for her son. Sgt. Mole stated that he provided § 87(2)(b) with a complaint form. After providing the complaint form, a younger female that was with § 87(2)(b) began to cry. § 87(2)(b) stated that she was going to leave the stationhouse and said that she did not want the complaint form. Sgt. Mole denied that he refused to take § 87(2)(b)'s complaint (Board Review 9 and 10).

§ 87(2)(g)

Allegation C: Abuse of Authority: Lieutenant William Negus entered § 87(2)(b) in Queens.

Allegation D: Abuse of Authority: Detective Brian Simonsen entered § 87(2)(b), in Queens.

§ 87(2)(g)

It is undisputed that Det. Brian Simonsen knocked on § 87(2)(b)'s door, and § 87(2)(b) it. The door remained open until the officers left the location, at which point, § 87(2)(b) closed the door.

At approximately 6:47 p.m., § 87(2)(b) stated that when he opened the door and saw Det. Simonsen and Lt. Negus, he attempted to close the door twice but was unable to close the door since Det. Simonsen placed his foot in between the door frame and door jamb. § 87(2)(b) denied that Lt. Negus or Det. Simonsen entered past the doorway. During his conversation with Det. Simonsen and Lt. Negus, Lt. Negus told § 87(2)(b) "We are looking for § 87(2)(b) You know who that is." § 87(2)(b) denied that he knew anyone by that name. After speaking to the officers for approximately two minutes, § 87(2)(b) told Lt. Negus and Det. Simonsen, "I just want everyone to get out of here." The officers then left the location (Board Review 6).

§ 87(2)(b) § 87(2)(b) § 87(2)(b)'s son, who was home at the time, stated from his vantage point, he saw Det. Simonsen with his foot and leg in between the door jamb which prevented it from closing. Lt. Negus stood behind Det. Simonsen in the hallway. § 87(2)(b) § 87(2)(b) heard § 87(2)(b) tell one of the officers that they could not "do this," but he did not hear any additional comments or know what § 87(2)(b) comment referenced. § 87(2)(b) § 87(2)(b) did not hear the officers say whom they were looking for (Board Review 5).

§ 87(2)(b) was at the 103rd Precinct stationhouse during this time and did not witness this portion of the incident. During her interview, § 87(2)(b) acknowledged that § 87(2)(b) § 87(2)(b) was wanted for attempted murder and that it was possible that officers had been looking for him on the date of the incident (Board Review 4).

Det. Simonsen stated that Det. Guerriero and other members of the 102nd Detective Squad were working on a gang assault case involving § 87(2)(b) § 87(2)(b) also known as § 87(2)(b) § 87(2)(b) a known member of the § 87(2)(b), and other members of the gang, were wanted for assault. Det. Simonsen did not know when the database searches for § 87(2)(b) § 87(2)(b) were conducted, but after he did a DAS Lite check, Det. Simonsen knew § 87(2)(b) § 87(2)(b) appearance, that § 87(2)(b) was listed as a known address for § 87(2)(b) § 87(2)(b) and that he had previous assault and drug-related arrests. Det. Simonsen considered § 87(2)(b) § 87(2)(b) to be a dangerous individual due to his gang affiliation and past assaults.

An hour before going to the location, Det. Simonsen and Lt. Negus monitored § 87(2)(b) § 87(2)(b) social media accounts. While monitoring § 87(2)(b) § 87(2)(b) Facebook account, Det. Simonsen saw that § 87(2)(b) § 87(2)(b) posted a Facebook Live video with another unidentified male. The male in video asked § 87(2)(b) § 87(2)(b) to come § 87(2)(b), and play video games. Other than the address being a known address for § 87(2)(b) § 87(2)(b) and the Facebook Live video, Det. Simonsen did not have any additional reasons to believe § 87(2)(b) § 87(2)(b) was present at the location. Det. Simonsen

and Lt. Negus went to the location with a suspect only/ probable cause to arrest I-cards that had been generated related to § 87(2)(b) criminal case.

Once Det. Simonsen and Lt. Negus arrived at the location, Det. Simonsen knocked on the door to § 87(2)(b) § 87(2)(b) fully opened the door, at which point Det. Simonsen stood in the door frame and remained there during the entirety of his interaction with § 87(2)(b) Det. Simonsen did not recall if § 87(2)(b) made any comments about Det. Simonsen standing in front of the door. Det. Simonsen denied that he walked past the door frame or that he broke the threshold of the apartment door. Det. Simonsen denied that he prevented the door from closing and denied that § 87(2)(b) gave consent and to enter the apartment if he wanted to.

While speaking to § 87(2)(b) Det. Simonsen asked, “Is § 87(2)(b) here?” § 87(2)(b) responded, “Who the fuck is that?” Det. Simonsen explained that he was looking for § 87(2)(b) § 87(2)(b), but § 87(2)(b) denied knowing § 87(2)(b) or § 87(2)(b) and denied that he was at the location. While recording the interaction on his cell phone, § 87(2)(b) left the front door open which enabled Det. Simonsen to see § 87(2)(b) in his bedroom. Det. Simonsen denied that he interacted with § 87(2)(b) because he knew that he was not § 87(2)(b) and did not recognize him from the Facebook Live video.

While Det. Simonsen stayed at the front door, § 87(2)(b) paced back and forth from the bedroom, where § 87(2)(b) was located, to the living room. § 87(2)(b) called 911 and said that two individuals were at his door whom he did not believe to be police officers. Det. Simonsen heard the radio transmission from § 87(2)(b) 911 call on his radio. Det. Simonsen remained standing in the doorway, and they waited for a sector from the 102nd Precinct to respond to verify with the patrol officers that they were detectives. Once the uniformed officers from the 102nd Precinct verified that Det. Simonsen and Lt. Negus were officers, Det. Simonsen left the location and left the door open. As they walked away, § 87(2)(b) closed the door (Board Review 13 and 14).

§ 87(2)(g)

Lt. Negus also acknowledged that they were in possession of a probable cause to arrest I-card for § 87(2)(b) Lt. Negus denied that he verified that the location was a known address for § 87(2)(b) or that he personally conducted any database searches to confirm that information. § 87(2)(e), § 87(2)(f)

After canvassing the park, and not finding § 87(2)(b) Lt. Negus, Det. Simonsen and two Field Intelligence Officers, Sgt. Timothy Schmidt and Det. Joseph Cortright accompanied them to the apartment. After § 87(2)(b) opened the door, Lt. Negus and Det. Simonsen spoke to him, but Lt. Negus did not recall the specifics of their conversation. Lt. Negus did not know how far § 87(2)(b) opened the door, but he opened the door towards into the apartment. Lt. Negus possibly

told § 87(2)(b) that they were looking for someone known as § 87(2)(b). Lt. Negus did not know if Det. Simonsen had made any statements regarding looking for § 87(2)(b).

Lt. Negus § 87(2)(g) saw § 87(2)(b) but did not interact with him or engage with him since he was not § 87(2)(b). Lt. Negus stated that he stood in the hallway, but denied that he entered the apartment. Lt. Negus stated that § 87(2)(b) requested to speak to a supervisor, but since Lt. Negus was in plainclothes and outside of his command, he radioed for a uniformed sector from the 103rd to verify he was an officer. Once § 87(2)(b) stated, “I just want you all to leave.” Lt. Negus and Det. Simonsen left the location, the door remained opened until § 87(2)(b) closed the door (Board Review 15 and 16).



Det. Simonsen- Entry.mp4



Lt. Negus-Entry.mp4

At the commencement of the video marked “Det. Simonsen-Entry”, Det. Simonsen is seen standing with his back against the front door with his feet within the door frame. This is where he stands for the entirety of the video. At the 0:54 second mark in the video, Det. Simonsen asks § 87(2)(b) to confirm his name which he does. § 87(2)(b) also confirms that the other individual that is present is § 87(2)(b). At the 1:05 mark, Det. Simonsen is heard asking if there is anyone else in the apartment, but § 87(2)(b) refuses to answer him.

At the 0:30 mark in the video marked “Lt. Negus- Entry,” Lt. Negus is heard telling § 87(2)(b) that they are looking for someone. When § 87(2)(b) states, “I do not know why you all are here,” Lt. Negus states that he is looking for § 87(2)(b) and “§ 87(2)(b) § 87(2)(b) is heard telling Lt. Negus and Det. Simonsen that he will not answer their questions. Neither video shows the beginning of the incident when Det. Simonsen allegedly prevented § 87(2)(b) from closing the door (Board Review 29; 33 and 34).

DD5s and a copy of the open complaint corroborated that the 102nd Precinct Detective Squad was actively investigating § 87(2)(b) for gang assault and attempted murder (Board Review 36 and 37). A DAS Snapshot for § 87(2)(b) corroborated that § 87(2)(b)'s address was a known address for him (Board Review 35).

In People v. Min Chul and People v. Schiavo, the court ruled in each case that a defendant’s arrest at the doorway of a private residence did not violate Payton v. New York, as the doorway is a public place for the purposes of the Fourth Amendment analysis, and because the defendant had no legitimate expectation of privacy while standing there. People v. Min Chul Shin, 200 A.D.2d 770 (1994); People v. Schiavo, 212 A.D. 2d 816 (1995) (Board Review 38 and 39) Officers were warranted in reaching in and pulling out the defendant from his residence when he voluntarily opened the door and stood in close proximity to the door, since by his actions, he knowingly and voluntarily presented himself for public view. People v. Ashcroft, 33 N.Y.3d 429 (Board Review 40).

§ 87(2)(g)

Civilian and Officer Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 01).
- Sgt. Mole has been a member of service for twenty-six and has been the subject in 21 CCRB complaints and 47 allegations, of which one has been substantiated.
 - 201112840 involved the substantiated allegation of a discourtesy against Sgt Mole. The Board recommended command discipline and the NYPD imposed instructions.
 - § 87(2)(g) .
- Lt. Negus has been a member of service for sixteen years, and this is the first CCRB complaint to which he has been a subject.
- Det. Simonsen has been a member of service for eighteen years and has been the subject in two CCRB complaints and five allegations, none of which have been substantiated § 87(2)(g) .

Mediation, Civil, and Criminal Histories

- This case was unsuitable for mediation.
- As of April 12, 2018, a Notice of Claim inquiry for § 87(2)(b) is pending (Board Review 3).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: _____

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date